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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,708	10/22/2001	Eric Jeffrey Lannert	05222.00167	3465

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BANNER & WITCOFF AND ATTORNEYS FOR ACCENTURE  
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EXAMINER
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HIRL, JOSEPH P

ART UNIT	PAPER NUMBER
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2129

DATE MAILED: 08/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/868,708

Applicant(s)

LANNERT ET AL.

Examiner

Joseph P. Hirl

Art Unit

2129

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This Office Action is in response to an AMENDMENT entered June 6, 2005 for the patent application 09/868,708 filed on October 22, 2001.
2. All prior office actions are fully incorporated into this office action by reference.

### *Status of Claims*

3. Claims 19 and 20 are cancelled. Claims 21 and 22 are new. Claims 1-18, 21 and 22 are pending.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-18, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Cook et al (WO 97/44766 referred to as **Cook**).

Examiner's Note (EN): User instructions are embodied in source code that is used to run or operate computers and to create, initialize and operate agents. Such is the way

computers operate. Computer source code representation is not a patentably unique feature of a disclosure. Such concepts are manifest in Cook @ p 1, l 5-8 and p 7, l 11-16. Cook has computers and computers have source code to implement instructions. Cook has agents which are software entities configured to operate on user initiated commands to implement system functions. Computer art functions in this manner.

**Claims 1, 10**

Cook anticipates (a) a reception source code segment comprising source code for receiving information indicative of a goal (**Cook**, p 1, l 5-8; p 7, l 11-16; p 7, l 37); (b) an integration source code segment comprising source code for integrating information that motivates accomplishment of the goal for use in the presentation (**Cook**, p 1, l 5-8; p 7, l 11-16; p 8, l 9); (c) a synchronization source code segment comprising source code for synchronizing events in the presentation utilizing a time based model for presenting to a user, a selected predetermined list of actions during each time period, and for receiving a use selection from the selected list of actions during each said time period; and (**Cook**, p 1, l 5-8; p 7, l 11-16; p 1, l 5-8; p 7, l 19-29; Examiner's Note (EN): computers are synched with an internal clock; virtual tutor provides interaction); and (d) an evaluation source code segment comprising source code for evaluating progress toward the goal and providing feedback that further motivates accomplishment of the goal utilizing the time based model to control the presentation of information based on the user selection (**Cook**, p 1, l 5-8; p 7, l 11-16; p 10, l 28-31; p 8, l 8-13; p 7, l 19-29).

**Claims 2, 11**

Cook anticipates including an interactive source code segment comprising source code for presenting an interactive session and querying a user for analysis of the interactive session including a decision (**Cook**, p 1, l 5-8; p 7, l 11-16; p 7, l 19-29).

**Claims 3, 12**

Cook anticipates a presentation source code segment comprising source code for altering the presentation based on the user's decision to further refine the accomplishment of the goal (**Cook**, p 1, l 5-8; p 7, l 11-16; p 7, l 19-29).

**Claims 4, 13**

Cook anticipates a timing source code segment comprising source code for advancing time as the presentation proceeds (**Cook**, p 1, l 5-8; p 7, l 11-16; p 7, l 19-29; EN: it is axiomatic that time will advance during the referenced events).

**Claims 5, 14**

Cook anticipates a presentation source code segment comprising source code for presenting a new presentation and querying a user for a new decision after the time is advanced (**Cook**, p 1, l 5-8; p 7, l 11-16; p 101, l 1).

**Claims 6, 15**

Cook anticipates a simulation source code segment comprising source code for simulating the management of resources utilizing the presentation (**Cook**, p 1, l 5-8; p 7, l 11-16; p 7, l 19-29; EN: such is a virtual tutor, a simulated tutor).

**Claims 7, 16**

Cook anticipates a adjustment source code segment comprising source code for adjusting the feedback based on a current time (**Cook**, p 1, l 5-8; p 7, l 11-16; p 7, l 19-29; EN: such is a virtual tutor exercising feedback).

**Claims 8, 17**

Cook anticipates a interface source code segment comprising source code for passing information from the presentation to an expert system to analyze the information and formulate the appropriate feedback utilizing time as a variable for analysis (**Cook**, p 1, l 5-8; p 7, l 11-16; p 7, l 19-29; EN: such is interaction ... feedback).

**Claims 9, 18**

Cook anticipates including a simulation source code segment comprising source code for utilizing an internal clock to synchronize time (**Cook**, p 1, l 5-8; p 7, l 11-16; EN: such is a computer's internal operation).

**Claim 21**

Cook anticipates the synchronization source code segment further comprises source code for initiating execution of the presentation at a desired start time period of time and for allowing the execution of the presentation to continue for a desired number of time periods (**Cook**, p 1, l 5-8; p 7, l 11-16; p 1, l 5-8; p 7, l 19-29; Examiner's Note (EN): computers are synched with an internal clock; virtual tutor provides interaction).

**Claim 22**

Cook anticipates (a) a processor (**Cook**, p 7, l 11-18); (b) a memory that stores information under control of the processor (**Cook**, p 7, l 11-18); (c) logic that integrates information that motivates accomplishment of the goal for use in the presentation.

(Cook, p 7, l 19-29; EN: such is the task of the virtual tutor); (d) logic that synchronizes events in the presentation utilizing a time based model during a plurality of time periods (Cook, p 7, l 11-18; EN: such is a computer operation with a virtual tutor); (e) logic that evaluates progress toward the goal (Cook, p 7, l 19-29; EN: such is the task of the virtual tutor); (f) logic that provides feedback, responsive to a progress indication, that further motivates accomplishment of the goal utilizing the time based model to control the presentation of information (Cook, p 7, l 19-29; EN: such is the task of the virtual tutor); and (g) logic that initiates execution of the presentation at a desired start period of time and that allows the execution of the presentation for a desired number of periods of time (Cook, p 7, l 11-18; EN: para 10 applies; such is the operation of a computer).

### ***Response to Arguments***

6. Applicant's arguments filed on June 6, 2005 related to Claims 1-20 have been fully considered but are not persuasive.

In reference to Applicant's argument:

Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 97/44766 (Cook). The Office Action has not rejected claims 19-20 under 35 U.S.C. § 102 in the Detailed Action; however, the Applicants have cancelled claims 19-20 without prejudice. Regarding claim 1, the Applicants have amended the claim to include the elements "a synchronization source code segment comprising source code for synchronizing events in the presentation utilizing a time based model, for presenting, to a user, a selected predetermined list of actions during each time period, and for receiving a user selection from the selected list of actions during each said time period" and "an evaluation source code segment comprising source code for evaluating progress toward the goal and providing feedback that it further motivates accomplishment of the goal utilizing the time based model to control the presentation of information based on the user selection." (Emphasis added.) The amendment is supported by the specification as originally filed. For example, the present patent application discloses (Page 38, top entry of table.):

Time based simulation where student "chooses own adventure". Each period the student selects from a pre-determined list of actions to take. Developed on SBPC as a simplified version of the BDM manage task.

Cook fails to teach or even suggest the above elements.

Examiner's response:

Para 10. applies. Claims 19 and 20 were rejected under 35 USC (b) in the Final Office Action dated February 4, 2005 @ page 6, lines 14-21. Cook teaches an "interactive, adaptive, and individualized computer assisted instruction (Cook, Abstract). It is fully understood by the computer science community, that a computer has a master clock and all source code instructions are synchronized with this master clock when the program is implemented. The virtual tutor offers a high quality of individualized student interaction which includes user selection (Cook, p 7, l 19-29).

In reference to Applicant's argument:

Similarly, the Applicants have amended claim 10 to include "logic that synchronizes events in the presentation utilizing a time based model, that presents, to a user, a selected predetermined list of actions during each time period, and that receives a user selection from the selected predetermined list of actions during each said time period" and "logic that provides feedback, responsive to a progress indication, that further motivates accomplishment of the goal utilizing the time based model to control the presentation of information based on the user selection."

Examiner's response:

Para 10. applies. Above discussion applies. Cook's virtual tutor provides the options and the interaction to generate the responses.

In reference to Applicant's argument:

Regarding claims 8 and 17, in addition to the above discussion, the Office Action alleges that Cook anticipates an interface source code segment comprising source code for passing information from the presentation to an expert system to analyze the information and formulate the appropriate feedback utilizing time as a variable for analysis (Cook, p 1, 5-8; p 7, l 11-16; p 7, l 19-29; EN: such is interaction ... feedback)." Even though Cook discusses feedback, Cook does not teach "an interface code segment comprising source code for passing information from the presentation to an expert system to analyze the information and formulate the appropriate feedback utilizing time as a variable for analysis." (Emphasis added.) Cook does teach (Page 7, lines 19-29):

An important object of this invention is to provide the student with a virtual tutor, by having agent software ("agent") adapted to each student that offers a high quality of individualized student interaction and that manages or controls instruction in a manner approximating a real tutor. The



agent exercises management or control over the computer-assisted instruction materials and provides information and help to the student, both synchronously and asynchronously to particular instructional materials. Agent behaviors are sensitive to both the educational context and to the history of student behavior.

Cook fails to formulate feedback utilizing time as a variable for analysis. In fact, Cook's teachings do not analyze time at all.

Examiner's response:

Para 10. applies. Computer programs have source code. Computer processors have master clocks for program synchronization. Cook has a virtual tutor for interactive teaching. Time variant behavior is noted and analyzed (Cook, p 8, I 17-24).

### ***Examination Considerations***

7. The claims and only the claims form the metes and bounds of the invention.

"Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

8. Examiner's Notes are provided to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further

indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

9. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

10. Examiner's Opinion: Paras 7-9 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

### ***Conclusion***

11. Claims 1-18 and 21 and 22 are rejected.

### ***Correspondence Information***

12. Any inquiry concerning this information or related to the subject disclosure should be directed to the Examiner, Joseph P. Hirl, whose telephone number is (571) 272-3685. The Examiner can be reached on Monday – Thursday from 6:00 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the

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Examiner's supervisor, Anthony Knight can be reached at (571) 272-3687.

Any response to this office action should be mailed to:

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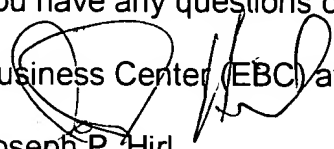
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Joseph P. Hirl  
Primary Examiner  
July 19, 2005